



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-720-10
Regulation Title:	CPS Release of Information to Family Advocacy Representatives of the United States Armed Forces
Action Title:	Amendment
Date:	

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulation provides the local department with the authority to release information, when appropriate to a representative of the Family Advocacy Program. Information regarding child protective services reports, complaints, investigations and related services and follow-up may be shared with the appropriate Family Advocacy Program representative of the United States Armed Forces when the local agency determines such release to be in the best interest of the child. 22 VAC 40-720-10 applies to instances where the alleged abuser or neglecter is a member (or the spouse of a member) of the United States Armed Forces. In these situations, coordination between child protective services and the Family Advocacy Program is intended to facilitate identification, treatment and service provision to the military family.

In founded complaints in which the abuser or neglecter is an active duty member of the United States Armed Forces, or is the spouse of a member residing in the member's household,

information regarding the disposition, type of abuse or neglect, and the identity of the abuser or neglecter must be provided to the appropriate Family Advocacy Program representative. This notification must be made in writing within 30 days after administrative appeal rights of the abuser or neglecter have been exhausted or forfeited.

The military member must be advised that this information is being provided and shall be given a copy of the written notification sent to the Family Advocacy Program representative. When needed by the Family Advocacy Program representative to facilitate treatment and service provision to the military family, additional related information must also be provided to the Family Advocacy Program representative.

The definition of “Founded” must be amended in this regulation to ensure that it is consistent with the definition of “Founded” in the regulation entitled, Child Protective Services (22 VAC 40-705-10 et seq.), which requires “preponderance of the evidence” for a founded disposition.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Virginia Code Sections 63.1-25 and 63.1-248.6(I) provide mandatory authority. This regulation is within the scope of the mandate. The first Code citation gives the State Board responsibility for making rules and regulations to carry out the purposes of social services. The second citation specifically references providing CPS information to Family Advocacy representatives.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the regulation is to mandate the local department of social services to share information, as appropriate, with a representative of the Family advocacy Program in founded cases of child abuse/neglect. The purpose of the amendment is to update the definition of "founded," which has changed since the regulation was implemented in 1994.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

This regulation provides the local department with the authority to release information, when appropriate to a representative of the Family Advocacy Program. Information regarding child protective services reports, complaints, investigations and related services and follow-up may be shared with the appropriate Family Advocacy Program representative of the United States Armed Forces when the local agency determines such release to be in the best interest of the child. 22 VAC 40-720-10 applies to instances where the alleged abuser or neglecter is a member (or the spouse of a member) of the United States Armed Forces. In these situations, coordination between child protective services and the Family Advocacy Program is intended to facilitate identification, treatment and service provision to the military family.

In founded complaints, 22 VAC 40-720-20 is specific about the information to be provided to the Family Advocacy Program, so the definition of "founded" will be corrected in section 10 through this amendment.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage to this proposed regulatory action is that it will make this regulation consistent with the standard of evidence now required in separate child protective services regulations for a founded complaint. There are no disadvantages to updating this regulation.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

There is no expected fiscal impact.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

The change being proposed is very specific and brief:

In Chapter 720, Section 10, entitled "Definitions," the definition of "Founded" currently says it means that a review of the facts shows clear and convincing evidence that child abuse or neglect has occurred. The words "clear and convincing" should be changed to "a preponderance of."

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

No alternatives were considered because the definition must be updated for accuracy and consistency within the CPS program.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

Only one comment was received, and it strongly supported both the regulation and this brief amendment to the regulation.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

This regulation is as clear and concise as possible. The agency has received no indication from any of the affected parties that the regulation is difficult to understand.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

This change is being made as a result of a periodic review of CPS regulations completed on March 30, 1999. The regulation will be subject to review and re-evaluation within three years from the date this proposed change becomes effective.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The regulation itself impacts families, but this change in definition within the regulation will not have a significant impact. Before this regulation was implemented in 1994, previous policy permitted information sharing between local agencies and Family Advocacy Programs on a discretionary basis. This discretion resulted in some military families not being tracked, and/or children at risk in these families not receiving needed services for protection purposes. This regulation appears to be in the best interest of children at risk by mandating the sharing of information in founded cases of child abuse/neglect between the local department of social services and the Family Advocacy Program.

The intention is for military families in which there is a finding of child abuse/neglect to be strengthened by appropriate coordination of services. The parents will receive encouragement to provide the nurturance and supervision needed by their children to protect them from current and future abuse or neglect.